

CERTIFIED TRUE COPY

FILED

MAR 22 2006

BOARD OF PHARMACY

ZULIMA FARBER
ATTORNEY GENERAL OF NEW JERSEY
Division of Law - 5th Floor
124 Halsey Street
P.O. Box 45029
Newark, New Jersey 07101

By: Marianne W. Greenwald
Deputy Attorney General
Tel. No. (973) 648-4876

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF PHARMACY

IN THE MATTER OF THE SUSPENSION
OR REVOCATION OF THE LICENSE OF

PETER MIKHAIL, R.P.

TO PRACTICE PHARMACY IN THE
STATE OF NEW JERSEY

:
: Administrative Action
:
: CONSENT ORDER
:
:
:
:
:
:

This matter was opened to the New Jersey State Board of Pharmacy ("board") upon receipt of information that respondent had been arrested for the issuance of fraudulent prescriptions to obtain Vicoprofen, a Schedule III Controlled Dangerous Substance, for his

own consumption, and that he had admitted to having abused controlled substances.

In support of his application for reinstatement, respondent has represented that he has not practiced pharmacy since April of 2003, that he has maintained sobriety since the fall of 2004, and has submitted documentation demonstrating participation in a program of rehabilitation, and successful completion of PTI. Moreover, respondent has submitted documentation evidencing his continued negative urine screens through May of 2005. Respondent being desirous of resolving this matter without the necessity of further formal proceedings and agreeing to waive any right to same; and the board having determined that this order is sufficiently protective of the public health, safety and welfare; and all parties agreeing to the terms of this Order,

ACCORDINGLY, IT IS on this day of , 2006,

ORDERED that:

1. Respondent shall submit to the board random witnessed urine screens conducted a minimum of one (1) time per week for two months from the date of entry of this Order. Other than the number of urine screens required, all urine screens shall be performed pursuant to the requirements set forth in paragraph five (5) of this Order.

2. Respondent shall complete a criminal history background check, submit proof of completion of 45 current continuing education credits, ten (10) of which shall be didactic, and pay all applicable fees.

3. After Respondent has completed the requirements set forth in paragraphs 1 and 2 above to the board's satisfaction, respondent's license to practice pharmacy in the State of New Jersey will be reinstated subject to the conditions set forth below.

4. Respondent's license shall be placed in a probationary status for a period of two (2) years to commence on the date of reinstatement.

5. (a) Respondent shall submit to directly witnessed random urine monitoring a minimum of one (1) time per week at a laboratory facility approved by the board for the initial six (6) months of license reinstatement, and a minimum of two (2) times per month for the subsequent eighteen months thereafter. The urine monitoring shall be conducted with direct witnessing of the taking of the samples as designed by the laboratory facility. The initial drug screen of each sample shall utilize appropriate screening techniques including creatinine levels and specific gravity and all confirming tests and/or secondary tests will be performed by gas/chromatography/mass spectrometry (G.C./M.S.). The testing procedure shall include a forensic chain of custody protocol to

ensure sample integrity and to provide documentation in the event of a legal challenge.

(b) All test results including any secondary test results shall be provided directly to Joanne Boyer, Executive Director of the board, or her designee in the event she is unavailable. The board also will retain sole discretion to modify the manner of testing in the event technical developments or individual requirements indicate that a different methodology or approach is required in order to guarantee the accuracy and reliability of the testing. Upon receipt of any positive urine screen, the board reserves the right to amend the within order or to take action as provided in paragraph 11 below.

(c) Any failure by respondent to submit or provide a urine sample within twenty-four (24) hours of a request will be deemed to be equivalent to a confirmed positive urine test. In the event respondent is unable to appear for a scheduled urine test or provide a urine sample due to illness or other impossibility, consent to waive that day's test must be secured from Joanne Boyer or her designee. Personnel at the lab facility shall not be authorized to waive a urine test. In addition, respondent must provide the board with written substantiation of his inability to appear for a test within two (2) days, e.g., a physician's report attesting that he was so ill that he was unable to provide the urine sample or appear for the test. "Impossibility" as employed in this

provision shall mean an obstacle beyond the control of respondent that is so insurmountable or that makes appearance for the test or provision of the urine sample so infeasible that a reasonable person would not withhold consent to waive the test on that day.

(d) In the event respondent will be out of the State for any reason, the Board shall be so advised so that arrangements may be made at the Board's discretion for alternate testing. The Board may, in its sole discretion, modify the frequency of testing or method of testing during the monitoring period after consulting with PAPNJ.

(e)) Any urine test result showing creatinine levels below 20mg/dL and a specific gravity below 1.009 shall create a rebuttable presumption fo a confirmed positive urine test. Such specimen shall be immediately subjected to the confirming GC/MS test.

(f) Respondent shall familiarize himself with all foods, food additives or other products (such as poppy seeds) which may affect the validity of urine screens, be presumed to possess that knowledge, and shall refrain from the use of such substances. Ingestion of such substances shall not be an acceptable reason for a positive urine screen and/or failure to comply with the urine monitoring program.

6. Respondent shall attend Alcoholics Anonymous/Narcotics Anonymous ("AA/NA") or its equivalent at least three (3) times per week. Respondent shall provide evidence of

attendance at such groups directly to the Board on a monthly basis. If respondent discontinues attendance at any of the support groups without obtaining approval of the board, he shall be deemed in violation of this Order.

7. Respondent shall abstain from all psychoactive substances, including alcohol and controlled dangerous substances, and shall not possess any controlled dangerous substances except pursuant to a bona fide prescription written by a physician or dentist for good medical or dental cause in his own treatment. In addition, respondent shall advise any and all treating physicians and/or dentists of his history of substance abuse. Respondent shall cause any physician or dentist who prescribes medication for him which is a controlled dangerous substance to provide a written report to the board together with patient records indicating the need for such medication. Such report shall be provided to the Board no later than two (2) days subsequent to the prescription in order to avoid confusion which may be caused by a confirmed positive urine test as a result of such medication.

8. Respondent shall provide any and all releases to any and all parties who are participating in the monitoring, treatment or other program as outlined in this Order, as may be required in order that all reports, records, and other pertinent information may be provided to, and utilized by the Board in a timely manner.

9. Respondent shall serve a copy of this Order on any employer prior to commencing work as a licensee and shall ensure that each employer sends documentation to the board that he or she has reviewed the complete Order.

10. Respondent shall not be a preceptor or a pharmacist-in-charge and shall be barred from being a permit holder either directly or indirectly through connection with any person related by blood or marriage for a two year period from the date of reinstatement of his license.

11. (a) Respondent shall be subject to an order of automatic suspension of his license for the remainder of the probation period upon the board's receipt of any information which the Board, in its sole discretion, deems reliable demonstrating that respondent has failed to comply with any of the conditions set forth in this Consent Order, including but not limited to report of a confirmed positive urine, or a prima facie showing of a relapse or recurrence of alcohol or drug abuse.

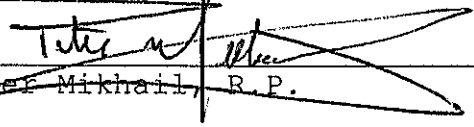
(b) Respondent shall have a right to apply for removal of the automatic suspension on ten (10) days notice to the Board and to the Attorney General. The board may hold a hearing on that application before the full board or before a committee of the board. In the event a committee hears the application, its action shall be subject to ratification of the full board at its next

scheduled meeting. In a hearing seeking removal of the automatic suspension, any confirmed positive urine shall be presumed valid.

NEW JERSEY STATE BOARD OF PHARMACY

By: _____
Pamela Allen, R.P.
President

I have read the within Order and understand it. I agree to be bound by its terms and hereby consent to it being entered by the New Jersey Board of Pharmacy.



Peter Mikhail, R.P.